S.B.CRIM.MISC. PETITION NO.1087/2005

Maniram @ Malluram
Vs.
State of Rajasthan & Anr.

Date :: 05.07.2006

HON'BLE MR.JUSTICE H.R. PANWAR

Mr.N.L. Joshi, for the petitioner.
Mr.M.K. Garg, for the non-petitioner No.2..
Mr.Ashok Upadhyay, Public Prosecutor for State.

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 23.06.2005 passed by the Additional Sessions Judge, Anoopgarh (for short 'the revisional court' hereinafter) in criminal revision petition NO.43/2004, whereby the revisional court allowed the revision petition filed by non-petitioner No.2 and remanded the matter to the court of Judicial Magistrate, Anoopgarh to pass a fresh order in accordance with law after considering the investigation file, in the light of observations made therein.

I have heard learned counsel for the parties and perused the order impugned.

The order impugned to the extent directing the trial court to keep in view the observations made in the order of revisional court is beyond the scope of Section 398 Cr.P.C.

However, remanding the case to the trial court to pass a fresh order in accordance with law and considering the investigation file is just and proper and in consonance with the provisions of Section 398 Cr.P.C.

Consequently, the order impugned to the extent directing the trial court to keep in view the observations made therein is set aside. However, order reminding the case to trial court is maintained. The trial court shall make further inquiry and pass a fresh order in accordance with law. The further inquiry would mean to consider the existing material on record placed before it.

The ad interim stay order dated 29.09.2005 stands vacated and stay petition stands dismissed.

[H.R. PANWAR],J.

Ashwini/-